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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION**

GENENTECH, INC.,  
  
 Plaintiff,  
  
 vs.  
  
 THE TRUSTEES OF THE UNIVERSITY OF  
 PENNSYLVANIA, a Pennsylvania non-profit  
 corporation,  
  
 Defendant.

) Case No: 5:10-CV-2037-LHK (PSG)  
 )  
 ) **FIFTH JOINT STIPULATION AND**  
 ) **[PROPOSED] ORDER TO EXTEND THE**  
 ) **DEADLINE FOR GENENTECH TO FILE**  
 ) **OBJECTIONS TO THE COURT'S**  
 ) **NOVEMBER 22 ORDER**  
 )  
 ) **Hearing Date: TBD**  
 ) **Time: TBD**  
 ) **Judge: Hon. Lucy H. Koh**  
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1 WHEREAS on January 11, 2011, plaintiff Genentech, Inc. ("Genentech") and defendant the  
2 Trustees of the University of Pennsylvania ("the University") filed a Fourth Joint Stipulation and  
3 Proposed Order to Extend the Deadline for Genentech to File Objections to the Court's November  
4 22 Order (Dkt. No. 78) to February 1, 2011; and

5 WHEREAS the parties wanted the deadline extension to discuss whether there is a way to  
6 limit Genentech's production of regulatory materials, other than the BLA Submissions (as that term  
7 is used in the Court's November 22 Order), to avoid the production of irrelevant materials; and

8 WHEREAS, the parties are continuing to address the proper scope for production of the  
9 regulatory materials and believe that an additional extension would benefit their discussion; and

10 WHEREAS, the parties are continuing to arrange an appropriate manner in which to proceed  
11 with the production; and

12 WHEREAS, if the parties are unable to reach agreement, Genentech may wish to file  
13 objections to the Court's Order;

14 THE PARTIES THEREFORE AGREE as follows:

- 15 1. The deadline for Genentech to object with respect to the following sentence in the  
16 Court's November 22, 2010 Order, now set for February 1, 2011, is extended to  
17 February 15, 2011:

18 In addition, to the extent there is responsive electronic data other than  
19 the BLA Submissions in Defendant's possession, custody or control  
20 that is responsive to Document Request No. 36, Plaintiff shall either  
21 produce the unredacted data to Defendant by November 30, 2010, or  
22 else file a declaration by that date showing why it cannot do so and  
23 setting forth the earliest possible date that it will be able to do so.

- 24 2. No other provision of the Court's November 22, 2010 Order is changed.  
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1 SO STIPULATED:

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3 Respectfully submitted,

4 Dated: February 1, 2011

SIDLEY AUSTIN LLP

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6  
7 By: /s/  
M. PATRICIA THAYER

8 Attorneys for Plaintiff GENENTECH, INC.

9  
10 Dated: February 1, 2011

IRELL & MANELLA LLP

11  
12 By: /s/  
13 GARY N. FRISCHLING<sup>1</sup>

14 Attorneys for Defendants THE TRUSTEES OF  
15 THE UNIVERSITY OF PENNSYLVANIA

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27 <sup>1</sup> Pursuant to General Order 45(X), the filer of this document hereby attests that concurrence in the filing of the  
document has been obtained from Gary N. Frischling.

PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that:

1. The deadline for Genentech to object with respect to the following sentence in the Court's November 22, 2010 Order, now set for February 1, 2011, is extended to February 15, 2011:

In addition, to the extent there is responsive electronic data other than the BLA Submissions in Defendant's possession, custody or control that is responsive to Document Request No. 36, Plaintiff shall either produce the unredacted data to Defendant by November 30, 2010, or else file a declaration by that date showing why it cannot do so and setting forth the earliest possible date that it will be able to do so.

2. No other provision of the Court's November 22, 2010 Order is changed.

SO ORDERED.

Dated: February 2, 2011

  
LUCY H. KOH  
United States District Judge